

(i) shall serve, at the direction of the Board, as its chief operating officer; and

(ii) shall be knowledgeable and experienced in matters relating to physical fitness and sports.

(C) No Public Health Service employee nor the spouse or dependent relative of such an employee may serve as an officer or member of the Board of Directors or as an employee of the Foundation.

(D) Any individual who is an officer, employee, or member of the Board of the Foundation may not (in accordance with the policies developed under paragraph (1)(B)) personally or substantially participate in the consideration or determination by the Foundation of any matter that would directly or predictably affect any financial interest of the individual or a relative (as such term is defined in section 109(16) of the Ethics in Government Act of 1978) of the individual, of any business organization or other entity, or of which the individual is an officer or employee, or is negotiating for employment, or in which the individual has any other financial interest.

#### SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall locate its principal offices in or near the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out the purposes under section 2, the Foundation shall have the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) except as otherwise provided herein, to accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(4) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except for gross negligence;

(5) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(6) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

For purposes of this Act, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

#### SEC. 5. PROTECTION AND USES OF TRADEMARKS AND TRADE NAMES.

(a) PROTECTION.—Without the consent of the Foundation, in conjunction with the President's Council on Physical Fitness and Sports, any person who uses for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance or competition—

(1) the official seal of the President's Council on Physical Fitness and Sports consisting of the eagle holding an olive branch and arrows with shield breast encircled by name "President's Council on Physical Fitness and Sports";

(2) the official seal of the Foundation;

(3) any trademark, trade name, sign, symbol or insignia falsely representing association with or authorization by the President's Council on Physical Fitness and Sports or the Foundation;

shall be subject in a civil action by the Foundation for the remedies provided for in the Act of July 9, 1946 (60 Stat. 427; commonly known as the Trademark Act of 1946).

(b) USES.—The Foundation, in conjunction with the President's Council on Physical Fitness and Sports, may authorize contributors and suppliers of goods or services to use the trade name of the President's Council on Physical Fitness and Sports and the Foundation, as well as any trademark, seal, symbol, insignia, or emblem of the President's Council on Physical Fitness and Sports or the Foundation, in advertising that the contributions, goods or services when donated, supplied, or furnished to or for the use of, approved, selected, or used by the President's Council on Physical Fitness and Sports or the Foundation.

#### SEC. 6. VOLUNTEER STATUS.

The Foundation may accept, without regard to the civil service classification laws, rules, or regulations, the services of volunteers in the performance of the functions authorized herein, in the same manner as provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

#### SEC. 7. AUDIT, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of Public Law 88-504 (36 U.S.C. 1101 et seq.), the Foundation shall be treated as a private corporation under Federal law. The Inspector General of the Department of Health and Human Services and the Comptroller General of the United States shall have access to the financial and other records of the Foundation, upon reasonable notice.

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to the Secretary and to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice or policy that is inconsistent with the purposes described in section 2(b); or

(2) refuses, fails, or neglects to discharge its obligations under this Act, or threaten to do so;

the Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. GRASSLEY. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar, en bloc: Calendar Nos. 747 through 755, and all nominations placed on the Secretary's desk in the Air Force, the Army, the Marine Corps, and the Navy. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

#### AIR FORCE

The following-named officer for appointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

##### To be lieutenant general

Maj. Gen. Joseph J. Redden, 000-00-0000.

The following-named officers for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of title 10 United States Code, sections 8374, 12201, and 12212:

##### To be brigadier general

Col. William J. Broadley, 000-00-0000, Air National Guard of the United States.

Col. Walter R. Ernst II, 000-00-0000, Air National Guard of the United States.

Col. Dennis A. Higdon, 000-00-0000, Air National Guard of the United States.

Col. Enrique J. Lanz, 000-00-0000, Air National Guard of the United States.

Col. Thomas P. Lauppe, 000-00-0000, Air National Guard of the United States.

Col. James A. McDevitt, 000-00-0000, Air National Guard of the United States.

Col. Joseph I. Mensching, 000-00-0000, Air National Guard of the United States.

Col. Fisk Outwater, 000-00-0000, Air National Guard of the United States.

Col. Lawrence L. Paulson, 000-00-0000, Air National Guard of the United States.

Col. Maxey J. Phillips, 000-00-0000, Air National Guard of the United States.

Col. Wallace F. Pickard, Jr., 000-00-0000, Air National Guard of the United States.

Col. Richard A. Platt, 000-00-0000, Air National Guard of the United States.

Col. John C. Schnell, 000-00-0000, Air National Guard of the United States.

Col. Allen J. Smith, 000-00-0000, Air National Guard of the United States.

Col. Paul J. Sullivan, 000-00-0000, Air National Guard of the United States.

Col. Michael H. Tice, 000-00-0000, Air National Guard of the United States.

#### ARMY

The following-named officers for promotion in the Regular Army of the United States to the grade indicated, under title 10, United States Code, sections 611(a) and 624:

##### To be brigadier general

Col. John P. Abizaid, 000-00-0000, U.S. Army.

Col. Daniel L. Montgomery, 000-00-0000, U.S. Army.

The following U.S. Army National Guard officer for promotion in the Reserve of the

Army to the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

*To be brigadier general*

Col. Lloyd E. Krase, 000-00-0000.

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

*To be brigadier general*

Col. Paul J. Glazar, 000-00-0000.

The following named officer for appointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

*To be lieutenant general*

Maj. Gen. Douglas D. Buchholz, 000-00-0000, U.S. Army.

The following named Army Competitive Category officers for promotion in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, United States Code, sections 611(a) and 624(c):

*To be brigadier general*

Col. Anders B. Aadland, 000-00-0000.  
Col. Lawrence R. Adair, 000-00-0000.  
Col. Robert E. Armbruster, Jr., 000-00-0000.  
Col. Raymond D. Barrett, Jr., 000-00-0000.  
Col. Joseph L. Bergantz, 000-00-0000.  
Col. William L. Bond, 000-00-0000.  
Col. Colby M. Broadwater III, 000-00-0000.  
Col. James D. Bryan, 000-00-0000.  
Col. Kathryn G. Carlson, 000-00-0000.  
Col. John P. Cavanaugh, 000-00-0000.  
Col. Richard A. Cody, 000-00-0000.  
Col. Billy R. Cooper, 000-00-0000.  
Col. John M. Curran, 000-00-0000.  
Col. Peter M. Cuvieello, 000-00-0000.  
Col. Dell L. Dailey, 000-00-0000.  
Col. John J. Deyermond, 000-00-0000.  
Col. James M. Dubik, 000-00-0000.  
Col. John P. Geis, 000-00-0000.  
Col. Larry D. Gottardi, 000-00-0000.  
Col. James J. Grazioplene, 000-00-0000.  
Col. Robert H. Griffin, 000-00-0000.  
Col. Richard A. Hack, 000-00-0000.  
Col. Wayne M. Hall, 000-00-0000.  
Col. William P. Heilman, 000-00-0000.  
Col. Russel L. Honore, 000-00-0000.  
Col. James T. Jackson, 000-00-0000.  
Col. Terry E. Juskowiak, 000-00-0000.  
Col. Geoffrey C. Lambert, 000-00-0000.  
Col. William J. Leszczynski, 000-00-0000.  
Col. Wade H. McManus, Jr., 000-00-0000.  
Col. Richard J. Quirk III, 000-00-0000.  
Col. William H. Russ, 000-00-0000.  
Col. Donald J. Ryder, 000-00-0000.  
Col. John K. Schmitt, 000-00-0000.  
Col. Walter L. Sharp, 000-00-0000.  
Col. Toney Stricklin, 000-00-0000.  
Col. Frank J. Toney, Jr., 000-00-0000.  
Col. Alfred A. Valenzuela, 000-00-0000.  
Col. John R. Vines, 000-00-0000.  
Col. Craig B. Whelden, 000-00-0000.  
Col. Roy S. Whitcomb, 000-00-0000.  
Col. Robert Wilson, 000-00-0000.  
Col. Walter Wojdakowski, 000-00-0000.  
Col. Joseph L. Yakovac, Jr., 000-00-0000.

The following named officer for reappointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code section 601(a):

*To be lieutenant general*

Lt. Gen. Jay M. Garner, 000-00-0000.

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code sections 3385, 3392 and 12203(a):

*to be brigadier general*

Col. Frank A. Avallone, 000-00-0000.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY+

Air Force nomination of Wendell R. Keller, which was received by the Senate and appeared in the Congressional Record of September 19, 1996.

Air Force nominations beginning Sean P. Abell, and ending Timothy T. Wilday, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 1996.

Air Force nominations beginning Randall R. Ball, and ending David B. Gruber, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 1996.

Air Force nominations beginning James E. Ball, and ending Phyllis M. Campbell, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 1996.

Army nominations beginning Ernest R. Adkins, and ending Raymond F. Root, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 1996.

Army nominations beginning William A. Ayers, Jr., and ending Jeffery Hart, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 1996.

Marine Corps nomination of Robert T. Bader, which was received by the Senate and appeared in the Congressional Record of September 13, 1996.

Marine Corps nomination of Wayne D. Szymczyk, which was received by the Senate and appeared in the Congressional Record of September 13, 1996.

Navy nominations beginning Brian G. Buck, and ending Eric M. Van Meter, which nominations were received by the Senate and appeared in the Congressional Record of November 7, 1995.

Navy nominations beginning Jeffery L. Bennett, and ending Steven A. Swittel, which nominations were received by the Senate and appeared in the Congressional Record of December 11, 1995.

Navy nominations beginning Rufus S. Abernethy, III, and ending James A. Weselis, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 1996.

Navy nominations beginning Glenn F. Abad, and ending Russell L. Wyckoff, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1996.

TRIBUTE TO JAMES McDEVITT

Mr. GORTON. Mr. President, today I want to recognize James A. McDevitt, who has just been promoted to brigadier general in the Washington Air National Guard. I take special pleasure in offering my congratulations because Jim is a friend and former colleague; for 5 years, he worked for me in the State attorney general's office as assistant attorney general. He is also my frequent host when I go to Spokane to run in the wonderful Bloomsday race.

Jim has served this country for three decades. He was trained as a navigator and bombardier, and went on to serve as a weapons systems officer and flight examiner in the late 1960's and early 1970's. His assignments took him to Korea, Thailand, Vietnam, Spain, Germany, and England.

In January 1971, Jim joined the 116th Fighter Interceptor Squadron, Wash-

ington Air National Guard, as a radar intercept officer in the F-101. When the unit converted to KC-135 Air Refueling aircraft, he became a navigator and has maintained that qualification since.

At the time of the gulf war, Jim was the squadron commander of the 116th Air Refueling Squadron. When hostilities broke out in August 1990, Jim and a group of Washington flyers volunteered for 30-day active duty tours. As the Nation faced a new crisis in the Middle East, the Guard stepped up. At first, most of their duties involved ferrying material from one air base to another, within the United States. Our victory in the gulf was due in no small part to the magnificent logical prowess of the U.S. Armed Services, and Jim contributed to America's success.

Throughout the months leading to actual combat, Jim continued volunteering for active duty work, making 2-week rotations all through September, October, and November. Jim's active duty call up came on December 20, 1990. Along with 325 brave men and women from the Spokane area, Jim deployed to the gulf region to be absorbed in the active duty Air Force. Half of Jim's squadron went to Cairo, Egypt. The other half, including Jim, flew to Jeddah, Saudi Arabia to join with active duty components. It is important to note here the adaptability of our Guard forces. With superior training and total dedication, the Washington State Air National Guard linked with the regular Air Force to form an active duty squadron—the 1709th Air Refueling Squadron provisional. Jim not surprisingly, was second in command.

With bankers, teachers, lawyers, housewives, contractors, judges, and active duty personnel, this squadron represented 50 airplanes, 80 crews, and 320 crew members for 8 different States. Home based in Jeddah, from the December 31 to January 15, 1991, Jim and his team planned now they were going to wage a war. They planned well.

As he tells it, the morning of January 16, 1991—the start of the war—was the most difficult day in Jim's life. Commanding officers were prohibited from flying in sorties during the first missions. So Jim had to wait and pray that his comrades, men and women he had flown with for 25 years, would come back safely. Of course they all performed brilliantly, as did Jim, and this Nation is better off for their hard work and patriotism.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDERS FOR THURSDAY, SEPTEMBER 26, 1996

Mr. GRASSLEY. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until the hour of